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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

THE PEOPLE,

Plaintiff and Respondent,

v.

LULLI ANNA DAHLANDER,

Defendant and Appellant.

E070523

(Super.Ct.Nos. INF1701265,  
IN1701066, IN1701330,  
INF1701341 & INF1701414)

OPINION

APPEAL from the Superior Court of Riverside County. Dean Benjamini, Judge.

Affirmed.

Kevin Smith, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

During a six-week period from June 16, 2017, through August 1, 2017, there were five separate felony complaints/petitions to revoke probation filed against defendant and appellant Lulli Anna Dahlander. Defendant entered into a plea agreement in all five cases.

On May 14, 2018, defendant filed a notice of appeal, which challenged the validity of her plea in the trial court. On May 16, 2018, the trial court granted defendant's request for a certificate of probable cause. On May 17, 2018, this court received defendant's notice of appeal and it was assigned case No. E070523.

On March 22, 2019, defendant filed a petition for writ of habeas corpus, case No. E072376. On the same day, in case No. E072376 defendant filed a request that "this Court take judicial notice of: (1) the complete appellate record previously filed in this Court in the related case of *People v. Dahlander*, No. E070523); and (2) pages downloaded from reputable medical websites WebMD and RxList, which show common side effects from the medication Chlordiazepoxide Hcl." On April 4 in case No. E072376 we granted defendant's request for judicial notice of the record in case No. E070523. We reserved "for consideration with the appeal on the request for judicial notice of pages from medical websites."

On March 25, 2019, in case No. E070523 we ordered that the petition for habeas corpus be considered with this appeal. On May 14, 2019, the People filed an informal response in case No. E072376.

## **FACTUAL AND PROCEDURAL HISTORY**

### **A. THE COMPLAINTS**

#### **1. *CASE NO. INF1701066***

On July 16, 2017, a felony complaint charged defendant and codefendant John Michael Hanna with five counts of first degree burglary of an inhabited dwelling under

Penal Code<sup>1</sup> section 459, and three counts of identity theft under section 530.5. The complaint also alleged that defendant served a prior prison term for second degree burglary in violation of section 459, within the definition of section 667.5, subdivision (b). The complaint further alleged that defendant had violated the terms of her mandatory supervision in case No. INF1402131.

2. *CASE NO. INF1701265*

On July 18, 2017, a felony complaint charged defendant with driving or taking a vehicle without permission under Vehicle Code section 10851, subdivision (a); buying or receiving a stolen vehicle under Penal Code section 496d, subdivision (a), while having been convicted of a prior vehicle theft under Penal Code section 666.5, subdivision (a); altering vehicle identification numbers under Vehicle Code section 10802; possession of methamphetamine for sale under Health and Safety Code section 10378; and possession of heroin for sale under Health and Safety Code section 10351. The complaint also alleged that defendant had violated the terms of her mandatory supervision in case No. INF160531.

3. *CASE NO. INF1701341*

On July 20, 2017, a felony complaint charged defendant with robbery of an inhabited dwelling under section 211; assault with a deadly weapon under section 245, subdivision (a)(1); and attempted dissuasion of a witness from reporting a crime under section 136.2, subdivision (b)(1). The complaint also alleged that defendant served a

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<sup>1</sup> All further statutory references are to the Penal Code unless otherwise specified.

prior prison term for second degree burglary under section 459, within the definition of 667.5, subdivision (b). The complaint further alleged that defendant had violated the terms of her mandatory supervision in case No. INF1402131.

4. *CASE NO. INF1701330*

On July 25, 2017, a felony complaint charged defendant with first degree burglary of an inhabited dwelling under section 459; and two counts of identity theft under section 530.5. The complaint also alleged that defendant served a prior prison term for second degree burglary under section 459, within the definition of section 667.5, subdivision (b). The complaint further alleged that defendant had violated the terms of her mandatory supervision in case No. INM1601531.

5. *CASE NO. INF1701414*

On August 1, 2017, a felony complaint charged defendant with buying and receiving a stolen vehicle under section 496d, subdivision (a). The complaint also alleged that defendant served a prior prison term for second degree burglary under section 459, within the definition of section 667.5, subdivision (b). The complaint further alleged that defendant had violated the terms of her mandatory supervision in case No. INF1402131.

B. THE PLEA AGREEMENTS

On March 16, 2018, defendant entered into plea agreements in all five cases, which included three strike offenses and an admission of a probation violation. The court imposed sentences in each case as follows:

1. *CASE NO. INF1701066*

The trial court deemed this case as the principal offense for sentencing purposes. Defendant pled guilty to robbery of an inhabited dwelling under section 211 (count 1). The court sentenced defendant to the low term of three years, observing that the crime was a violent felony and a strike offense. The court awarded custody credits of 21 days. The court struck the prison prior under section 667.5, subdivision (b), and dismissed counts 2 and 3.

2. *CASE NO. INF1701066*

Defendant pled guilty to first degree burglary of an inhabited dwelling with a person present under section 459 (count 1), another strike offense; and identity theft under section 530.5 (count 6). The trial court sentenced defendant to one year four months on count 1, plus eight months on count 6, representing one-third the midterm for the offense, for a total of two years to run consecutively. The court struck the prison prior under section 667.5, subdivision (b), and dismissed the remaining counts.

3. *CASE NO. INF1701265*

Defendant pled guilty to driving or taking a vehicle without permission under Vehicle Code section 10851, subdivision (a) (count 1); and possession of methamphetamine for sale under Health and Safety code section 10378 (count 4). The court sentenced defendant to eight months on count 1, plus eight months on count 4, representing one-third the midterm for the offense, for a total of one year four months to run consecutively. The court dismissed the remaining counts.

4. *CASE NO. INF170330*

Defendant pled guilty to first degree burglary of an inhabited dwelling under section 458, another strike offense (count 1). The court sentenced defendant to one year four months, presenting one-third the midterm for that offense, to run consecutively. The court struck the prison prior under section 667.5, subdivision (b), and dismissed the remaining counts.

5. *CASE NO. INF1701414*

Defendant pled guilty to count 1 for buying and receiving a stolen vehicle under section 496d, subdivision (a). The court sentenced defendant to eight months, representing one-third the midterm for that offense, to run consecutively. The court struck the prison prior under section 667.5.

In sum, the sentences in all five cases totaled eight years four months. The court also terminated probation with credit for time served for 38 days. The court then dismissed another misdemeanor charge in a different case and imposed the total sentence of eight years four months.

## **DISCUSSION**

A. REQUEST FOR JUDICIAL NOTICE

As noted above, on March 22, 2019, defendant filed a “request for judicial notice re petition for writ of habeas corpus.” Pursuant to Evidence Code section 452, subdivision (h), defendant requested “that this Court take judicial notice of relevant pages from reputable medical websites WebMD and RxList describing the common side effects

of the medication Chlordiazeposide Hcl, the generic version of Librium,<sup>[2]</sup> which was prescribed to [defendant] by Riverside County at the Indio Jail from March 7 through March 16, 2018, for treatment of severe withdrawal symptoms from drugs and alcohol addiction.”

Under Evidence Code section 452, subdivision (h), “Judicial notice may be taken of the following matters to the extent that they are not embraced within Section 451: [¶] . . . [¶] (h) Facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.” Judicial notice may be taken of information obtained from the Internet that meets this standard. (*Boghos v. Certain Underwriters at Lloyd’s of London* (2005) 36 Cal.4th 495, 505-506, fn. 6; see *Grimes v. Navigant Consulting Inc.* (N.D.Ill. 2002) 185 F.Supp.2d 906, 913 [taking judicial notice of stock prices reflected on a website under similar federal rule of evidence].) However, we also acknowledge that “[i]t is common knowledge by now that the World Wide Web, and more generally the Internet, provides ready access to information of all shades and degrees of accuracy, from the indisputably true to the inarguably false.” (See *People v. Franzen* (2012) 210 Cal.App.4th 1193, 1211, fn. omitted.)

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<sup>2</sup> Chlordiazeposide Hcl will be referred to as Librium.

Here, defendant asks us to take judicial notice of printouts from two medical websites describing the common side effects of Librium, the medication she was administered during the time she pled guilty to the cases at issue. Because WebMD and RxList listing the side effects of Librium are “not reasonably subject to dispute,” or “capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy,” we hereby grant defendant’s request for judicial notice under Evidence Code section 452, subdivision (h),.

**B. PETITION FOR HABEAS CORPUS**

In her petition, defendant claims that during the hearing wherein she pled guilty in all five of her cases on March 16, 2018, she was under the influence of a medication administered by jail medical personnel for her alcohol withdrawal symptoms. She also claims that she was drowsy, confused, “falling in and out of consciousness,” and unable to assist her defense competently. She also claims that she does not recall signing the guilty plea forms. Moreover, defendant contends that she did not understand her counsel’s explanation regarding her guilty plea. Defendant, therefore, argues that we should remand all five of her cases to the trial court in order for her to move to withdraw her guilty pleas. We disagree and will deny her petition by separate order.

**1. *LEGAL BACKGROUND***

“An appellate court receiving a petition for writ of habeas corpus must first determine whether, taking the allegations of the petition as true, it establishes a prima facie case for relief. If the petition does not state a prima facie case for relief, it must be summarily denied.” (*People v. Brodit* (1998) 61 Cal.App.4th 1312, 1333, citing *People*

*v. Romero* (1994) 8 Cal.4th 728, 737.) A petitioner bears “a heavy burden” to plead and prove grounds for relief by a preponderance of the evidence. (*In re Crew* (2011) 52 Cal.4th 126, 149; *In re Visciotti* (1996) 14 Cal.4th 325, 351.) A petition for writ of habeas corpus “should both (i) state fully and with particularity the facts on which relief is sought [citations], as well as (ii) include copies of reasonably available documentary evidence supporting the claim, including pertinent portions of trial transcripts and affidavits or declarations.” (*People v. Duvall* (1995) 9 Cal.4th 464, 474.) “Conclusory allegations made without any explanation of the basis for the allegations do not warrant relief, let alone an evidentiary hearing.” (*People v. Karis* (1988) 46 Cal.3d 612, 656.)

Under section 1018, “[o]n application of the defendant at any time before judgment . . . , the court may, . . . for a good cause shown, permit the plea of guilty to be withdrawn and a plea of not guilty substituted.” The defendant has the burden to show, by clear and convincing evidence, that there is good cause for withdrawal of his or her guilty plea. (*People v. Nance* (1991) 1 Cal.App.4th 1453, 1457.)<sup>3</sup>

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<sup>3</sup> Although defendant did not file a motion to withdraw her plea in the lower court prior to her appeal, defendant contends that she “did not forfeit her right to withdraw her guilty pleas for ‘good cause[.]’” In support of her argument, defendant claims that her counsel rendered ineffective assistance of counsel because counsel failed to advise defendant that she could withdraw her guilty pleas for good cause. We need not address defendant’s argument because, as will be discussed below, we find that defendant’s writ fails on the merits.

2. *DEFENDANT FAILED TO ESTABLISH A PRIMA FACIE CASE FOR RELIEF*

Defendant claims that her “medical and mental health records establish her prima facie case that she was impaired by a powerful controlled substance on March 16, 2018, when she entered her guilty pleas and was sentenced, thereby requiring a remand for an evidentiary hearing on whether she has ‘good cause’ to withdraw her pleas” under section 1018.

In her writ petition, defendant has attached medical records from when she was in custody. From March 7 to March 16, 2018, defendant was prescribed Librium to treat symptoms of alcohol withdrawal. Defendant was administered 75 mg of Librium on March 7; 50 mg, three times a day, from March 8 through March 10; 25 mg twice a day from March 11 through March 13; and 25 mg once a day from March 14 through March 16, 2018.

On the morning of the hearing where defendant pled guilty and the court sentenced defendant, she was administered 25 mg of Librium early in the morning. Defendant claims that the medication caused her to be impaired during the hearing; she “did not understand the charges against her, the plea agreements, the guilty pleas she entered, or the sentences she received on March 16, 2018.” In support of this claim, defendant submitted her declaration and the medical records described above. And, we have taken judicial notice of the common side effects of Librium; they include drowsiness, tiredness, dizziness and possible confusion. The documents, however, only indicate that these side effects *may* occur, and not that every person taking the medication

will have such side effects. There is nothing in the record to indicate that defendant actually suffered from the listed side effects. Moreover, the documents fail to state the severity of the possible side effects and at what dosage the side effects may occur. Defendant has failed to provide a declaration by any medical professional or any evidence to corroborate her claim that the 25 mg of Librium caused *her* not to be cognizant of her actions during the guilty pleas. Hence, defendant has failed to provide any declaration of medical professionals or other evidence to corroborate her claim that 25 mg of Librium caused *her* to be impaired prior to and during the hearing. As a general rule, a self-serving declaration lacks trustworthiness (*People v. Duarte* (2000) 24 Cal.4th 603, 611), and “ ‘must be corroborated independently by objective evidence.’ ” (*In re Resendiz* (2001) 25 Cal.4th 230, 253, quoting *In re Alvernaz* (1992) 2 Cal.4th 924, 938, abrogated on another ground in *Padilla v. Kentucky* (2010) 559 U.S. 356.)

Although defendant has failed to provide any additional evidence to support her claim other than her declaration, the transcript from the hearing wherein defendant pled guilty to all five cases supports a finding that defendant was *not* impaired during the hearing. The transcript shows that defendant was aware of her surroundings and the questions asked of her. Whenever defendant was asked a question, the transcript shows that defendant answered each question in a coherent manner. Defendant never asked for a question to be repeated, and never stated that she was confused, did not understand the proceedings, felt unwell, dizzy or incapacitated. For example, when the court asked defendant if she filled out the yellow felony plea form, the defendant answered, “Yes, I did.” Moreover, when the court asked if defendant understood the rights that she was

giving up and waiving by pleading guilty, defendant again answered, “Yes, I do.”

Additionally, when the court asked if defendant needed any additional time to discuss the plea agreement with her attorney, defendant responded, “No, I don’t.” Furthermore, there is nothing in the transcript to indicate that the court, the prosecutor, or defense counsel noticed any confusion or impairment by defendant during the proceedings. In addition to the transcript of the proceedings, the objective evidence from the guilty pleas/sentencing hearing—the plea forms—demonstrate that defendant was able to initial and sign the guilty plea forms in all five cases.

Based on the above, we find that defendant has failed to state a prima facie case for relief. By separate order, we will therefore deny defendant’s petition.

C. APPEAL

After defendant appealed, and upon her request, this court appointed counsel to represent her. On September 24, 2018, counsel filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738 setting forth a statement of the case, a summary of the facts, and potential arguable issues, and requesting this court to undertake a review of the entire record. We offered defendant an opportunity to file a personal supplemental brief, but she has not done so. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have independently reviewed the record for potential error and find no error.

**DISPOSITION**

The judgment is affirmed.

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MILLER  
Acting P. J.

We concur:

CODRINGTON  
J.

SLOUGH  
J.